

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ELISABETH REHN, an individual,

Plaintiff,

vs.

CITY OF SEATTLE, a lawful municipal  
corporation in the State of Washington; RILEY  
CAULFIELD; YOUNGHUN KIM; SETH  
WAGNER; JOHN DUUS; AND JASON  
DRUMMOND,

Defendants.

No. 2:23-cv-01609-RAJ

**DEFENDANTS' ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S AMENDED COMPLAINT**

The Defendants, City of Seattle, Seattle Police Department (SPD) Officers Riley Caulfield; Younghun Kim; Seth Wagner; John Duus; and Jason Drummond, hereby answer Plaintiff's Amended Complaint<sup>1</sup> and assert their affirmative defenses as follows:

**I. JURISDICTION AND VENUE**

1.1 Defendants admit that this Court has jurisdiction over Plaintiff's federal civil rights claims in this

<sup>1</sup> Dkt. # 4.

1 case. Defendants admit that this Court has supplemental jurisdiction over Plaintiff's state law  
2 claims in this case.

3 1.2 Defendants admit that venue is proper.

4 1.3 Defendants admit that Plaintiff presented a claim for damages to the City of Seattle on 11/23/21.

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6 **II. PARTIES**

7 2.1 Defendants are without sufficient knowledge to admit or deny the allegations in this  
8 paragraph, and therefore those allegations are DENIED.

9 2.2 Defendants admit that Officer Caulfield is an employee of the City and was acting within the  
10 course and scope of employment.

11 2.3 Defendants admit that Officer Kim is an employee of the City and was acting within the course  
12 and scope of employment.

13 2.4 Defendants admit that Officer Wagner is an employee of the City and was acting within the  
14 course and scope of employment.

15 2.5 Defendants admit that Sergeant Duus is an employee of the City and was acting within the course  
16 and scope of employment.

17 2.6 Defendants admit that Officer Drummond is an employee of the City and was acting within the  
18 course and scope of employment.

19 2.7 The City admits that it is a municipal governmental entity in the state of Washington and that the  
20 City of Seattle Police Department is a Department of the City.

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22 **III. FACTUAL BACKGROUND**

23 3.1 This Paragraph is compound and states numerous legal conclusions to which no response is

1 required. To the extent a response required, Defendants DENY the allegations. This Paragraph  
2 also contains factual allegations for which Defendants lack sufficient knowledge to admit or  
3 deny and therefore DENY them. Defendants admit that this incident occurred on or about  
4 November 22, 2020, shortly after 1:30 p.m. Defendants admit that the incident occurred in  
5 Seattle. Defendants admit that Ms. Rehn was located at 3016 1<sup>st</sup> Avenue, #404, Seattle,  
6 Washington.

7 3.2 Denied.

8 3.3 Defendants are without sufficient knowledge to admit or deny the allegations in this  
9 paragraph, and therefore those allegations are DENIED.  
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11 **IV. FIRST CAUSE OF ACTION: UNCONSTITUTIONAL SEARCH OF PLAINTIFF'S**  
12 **HOME IN VIOLATION OF THE FOURTH AMENDMENT**

13 4.1 Defendants incorporate the responses to previous paragraphs.

14 4.2 This Paragraph states legal conclusions to which no response is required. To the extent a  
15 response required, Defendants DENY the allegations.

16 4.3 Denied.

17 4.4 Denied.

18 4.5 Denied.  
19

20 **V. SECOND CAUSE OF ACTION: UNCONSTITUTIONAL SEIZURE OF**  
21 **PLAINTIFF'S PERSON IN VIOLATION OF THE FOURTH AMENDMENT**

22 5.1 Defendants incorporate the responses to previous paragraphs.

23 5.2 This Paragraph states legal conclusions to which no response is required. To the extent a  
response is required, Defendants DENY the allegations.

1 5.3 The Fourth Amendment of the Constitution speaks for itself. This Paragraph otherwise states  
2 a legal conclusion to which no response is required. To the extent that one is required,  
3 Defendants DENY the allegation.

4 5.4 Denied.

5 5.5 Denied.

6 5.6 Denied.

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8 **VI. THIRD CAUSE NEGLIGENCE**

9 6.1 Defendants incorporate the responses to previous paragraphs.

10 6.2 This Paragraph is compound and consists of legal conclusions to which no response is  
11 required. To the extent a response is required, Defendants DENY the allegations.

12 6.3 Denied.

13 6.4 Denied.

14 6.5 Denied.

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16 **X. PRAYER FOR RELIEF<sup>2</sup>**

17 This section contains Plaintiff's prayer for relief, to which no response is required. To the extent  
18 a response is required, Defendants deny that Plaintiff is entitled to the relief sought.

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20 **XI. CITY'S AFFIRMATIVE DEFENSES**

21 By way of further answer, without admitting any allegations previously denied, and as to its  
22 affirmative and other defenses, Defendants would show that at the time of the filing of its Answer it

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 <sup>2</sup> Plaintiff's numbering.

1 has not yet had a full opportunity to conduct a complete inquiry into the facts underlying this suit,  
2 including alleged damages. Based upon its knowledge, information, and belief at the present time,  
3 however, Defendants wishes to interpose the following affirmative defenses, some or all of which  
4 may ultimately be supported by facts revealed in the course of investigation and discovery. On the  
5 basis of the above, Defendants allege:

- 6 A. Plaintiff's allegations fail to state a claim against the City for which any relief can be  
7 granted.
- 8 B. The City, a municipal corporation, and its agencies, are immune from liability for  
9 prejudgment interest on tort judgments and are immune from punitive damages.
- 10 C. As to the individual defendant officers, Plaintiff's claims are barred by qualified  
11 immunity.
- 12 D. Plaintiff's negligence claim may be barred, in whole or in part, by governmental  
13 immunity, including the public duty doctrine.
- 14 E. Plaintiff's damages and injuries, if any, may have been caused by third parties over  
15 whom the City had no control. Accordingly, an award of damages to Plaintiff must be  
16 reduced to reflect the percentage of fault attributable to each at fault party as required by  
17 RCW 4.22.070.
- 18 F. Plaintiff's damages and injuries, if any, may have been caused by pre-existing medical  
19 or psychological conditions that are unrelated to their claims against the City.
- 20 G. Plaintiff failed to take reasonable steps to mitigate damages.
- 21 H. Plaintiff's claims may be barred, in whole or in part, by their contributory fault or  
22 negligence.
- 23 I. Plaintiff's claims may be barred, in whole or in part, by their assumption of the risk.

1 Defendants reserve the right to amend this answer to assert additional affirmative defenses,  
2 counterclaims, or cross-claims as may be appropriate based upon future discovery. Nothing  
3 contained in this Answer should be construed as a waiver of any such additional defenses.  
4 Defendants likewise expressly reserves the right to strike any admission, denial, or affirmative  
5 defense if the continuing discovery in this matter warrants it.

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7 **XII. PRAYER FOR RELIEF**

8 Having fully answered the Plaintiff's Complaint and having asserted defenses and affirmative  
9 defenses, Defendants respectfully request that the Court:

- 10 1. Dismiss Plaintiff's Complaint with prejudice with no relief to Plaintiff;  
11 2. Award Defendants costs and reasonable attorneys' fees herein; and,  
12 3. Award Defendants such other and further relief as the Court deems just and equitable.

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1 DATED this 15<sup>th</sup> day of November, 2023.

2 ANN DAVISON  
3 Seattle City Attorney

4 By: /s/ Catherine E. Riedo  
5 Catherine E. Riedo, WSBA #50418  
6 Alexandra Nica, WSBA #58299  
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14 *Attorney for Defendants City of Seattle, Riley Caulfield;*  
15 *Younghun Kim; Seth Wagner; John Duus; and Jason*  
16 *Drummond*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of November, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Jay H. Krulewitch, WSBA #17612  
P.O. Box 33546  
Seattle, WA 98133

*[Attorney for Plaintiff]*

(X) Via CM/ECF:

[jay@krulewitchlaw.com](mailto:jay@krulewitchlaw.com)

[natalie@krulewitchlaw.com](mailto:natalie@krulewitchlaw.com)

/s/ Laura Sanabria

Laura Sanabria, Legal Assistant